

## THE REFORM PROCESS

On March 12, 2003, Governor Owens issued Executive Order B 003 03, establishing the Commission on Civil Service Reform. The Governor noted that Colorado's civil service system is the most constitutionally rigid in the United States. Although a number of the protections provided in Colorado are comparable to those found in state personnel systems throughout the country, the distinguishing feature of Colorado's system is that unlike every other State – with the possible exception of Louisiana – not only its substance but much of its *process* is embedded in the Constitution. The result is a rigid employment system that causes waste and inefficiency, and hinders the effectiveness of the state workforce.

The Governor was concerned that despite some important strengths – most notably the “merit principle” – Colorado's civil service system has failed to keep pace with changing legal and economic circumstances. This static employment system has prevented Colorado state government from modernizing its processes in ways currently enjoyed by almost every other State. For example, Colorado's Constitution is the only one that restricts state managers to considering only the top three candidates for a position, rather than all qualified applicants. Only three other state legislatures are not allowed to determine what positions should be covered by the civil service. Over two-thirds of all States do not even mention the civil service in their constitutions.

The Executive Order directed the Commission to report back to the Governor and “recommend reforms to better serve the needs of state government, public employees, and taxpayers.” While the Commission focused primarily upon constitutional changes, a number of statutory fixes were also considered when it appeared that doing so would eliminate the need for further constitutional modifications.

Any change to the Constitution requires an amendment to be adopted by the voters at a general election. A proposed amendment can be placed before the voters in only one of two ways: either a referendum, or an initiative. A referendum requires the support of two-thirds of each house of the General Assembly, but unlike a statute is not subject to the signature or veto of the Governor. The two-thirds requirement necessarily demands that a proposed referendum have broad, bipartisan support. An initiative requires a petition drive to obtain the signatures of 5% of the votes cast at the 2002 general election.<sup>40</sup> The difficulty and expense of securing these signatures makes the initiative the disfavored avenue to the ballot for the Commission's recommendations.

The Commission began its work by identifying three major areas for study and consideration: general system reform, contracting, and higher education, and created three committees or “working groups” to make initial proposals. In addition, it met on April 15, May 15, June 26, and August 28 to hear testimony from a number of persons having extensive expertise or experience with the state personnel system, including Gail Schoettler (former State Personnel Director and former Lt. Governor), Wendell Pryor (director, Colorado Civil Rights Division, and former executive director, Colorado Association of Public Employees), Gerald Marroney (State Court Administrator), Jo Romero (Colorado Federation of Public Employees),

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<sup>40</sup> Colo. Const. art. V, § 1(2).

Forrest Cason (Senior Vice President & CFO, University of Colorado Hospital), Vonda Hall and Bill Hanna (Colorado Association of Public Employees), and former State Representative Penn Pfiffner.<sup>41</sup> The Commission also discussed the progress of the working groups, and heard from those members and staff who had participated in public meetings held throughout the State with interested employees.

Commissioners and staff held sessions in Fort Collins, Cañon City, Pueblo, La Junta, Boulder, Denver (Auraria campus), Sterling, Denver (State Capitol), Gunnison, Durango, Alamosa, Colorado Springs, Greeley, Glenwood Springs, Grand Junction, and Rifle.<sup>42</sup> All told, over 3,000 state employees participated in these meetings, and dozens more communicated with the Commission via its web site. Articles also appeared in each issue of *Stateline* (the state employee newspaper) describing the Commission's activities and some of the feedback it was receiving from state employees. In addition, commissioners and staff participated in a workshop with the Colorado chapter of College and University Professional Administrators – Human Resources, which is part of a nationwide network of public and private personnel professionals from institutions of higher education.

Testimony varied widely depending upon the issue, the location, and the point in the process when meeting was held. Earlier on, when the Commission had not developed concepts to which employees could react, comments tended to be broad, general, and more often than not touching upon salaries, performance pay, and benefits. Later, after the working groups made their reports, responses were more thoughtful, focused, and constructive. More than one employee urged the Commission not to “propose change for change's sake.” This was taken to heart and is reflected in the Commission's efforts to focus upon those aspects of the system that most employees or administrators thought warranted attention.

At the same time, it should be noted that the employment relationship between an individual and the State entails a wide range of issues, including selection, compensation, leave practices, retention, discipline, and retirement, among others. The Commission focused upon structural rather than financial issues in its work, and therefore has not considered any changes to the state employee compensation system or the Public Employees' Retirement Association (PERA) eligibility or benefits.

On June 1, the working groups published their reports and initial proposals. The Commission took these under advisement and continued the process of reaching out to state employees and soliciting input. Some proposals were eventually dropped, and some additional new ones were added, as a result of this continued outreach and feedback from employees.

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<sup>41</sup> See Appendix E.

<sup>42</sup> See Appendix D.